

PT 95-44
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

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ST. JOHN'S ROMAN CATHOLIC      )   Docket No.(s)  94-37-26  
CONGREGATION                   )  
                               )  
      Applicant                 )   PI No.   22-30-253-008  
                               )   (Henry County)  
      v.                         )  
                               )  
THE DEPARTMENT OF REVENUE      )   George H. Nafziger  
OF THE STATE OF ILLINOIS      )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: The hearing in this matter was held at 101 West Jefferson Street, Springfield, Illinois, on May 26, 1995, to determine whether or not Henry County parcel No. 22-30-253-008 should be exempt from real estate tax for the 1994 assessment year.

No one appeared on behalf of, or was present at the hearing on behalf of St. John's Roman Catholic Congregation (hereinafter referred to as the "Applicant"), and this matter was held as a default.

Was this parcel, which was purchased by the Applicant to be used as a part of its cemetery, used as a graveyard, or grounds for burying the dead, during 1994? Since no one appeared or testified on behalf of the Applicant, it is determined that the Applicant has failed to establish that this parcel was used as a graveyard, or grounds for burying the dead, during 1994.

FINDINGS OF FACT: The position of the Illinois Department of Revenue (hereinafter referred to as the "Department"), in this matter, namely that the parcel here in issue should not be exempt from property tax for the 1994 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 6B.

On September 22, 1994, the Henry County Board of Review transmitted an Application for Property Tax Exemption To Board of Review for the parcel here in issue for the 1994 assessment year, to the Department (Dept. Ex. No. 2). On February 24, 1995, the Department notified the Applicant that it was denying the exemption of the parcel here in issue for the 1994 assessment year (Dept. Ex. No. 3). Father Benjamin Reese, by a letter dated March 10, 1995, requested a formal hearing in this matter.

1. Based on the foregoing, I find that since no one appeared, or testified, on behalf of the Applicant, and since no additional evidence was offered concerning the use of this parcel, that the Applicant has failed to establish that this parcel qualified for an exemption from real estate tax for the 1994 assessment year.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 200/15.45 exempts certain property in part, as follows:

"All property used exclusively as graveyards or grounds for burying the dead is exempt."

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. *People ex rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims

the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

Since no one appeared, or testified, on behalf of the Applicant, and no evidence or testimony was offered concerning the use of this parcel during 1994, I conclude that the Applicant has failed to sustain the burden of proof in this matter.

I therefore recommend that Henry county parcel No. 22-30-253-008 remain on the tax rolls for the 1994 assessment year, and be assessed to the Applicant.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge

May , 1995